

**DECLARATION OF COVENANTS AND RESTRICTIONS
MALLORY WOODS SUBDIVISION
SECTION 21, TOWNSHIP 2, RANGE 6**

THIS DECLARATION, made this 22 day of MAY, 2002, by EBI, Inc. (hereinafter "Developer" or "Declarant").

PLAT BOOK 72 PAGE 47

WITNESSETH

WHEREAS, Developer is the owner of the real property described on Exhibit "A" attached to this Declaration (hereinafter "the Property") and desires to create thereon a residential community which shall be known as "Mallory Woods" (hereinafter the "Subdivision"), and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of certain access easements and other common facilities; and to this end, desires to subject the Property to these covenants, restrictions, easements and charges for the benefit of the Property and each owner thereof, and

WHEREAS, Developer has deemed it desirable, for the preservation of the values and amenities in the community, to establish site design and architectural controls, and doing all other things necessary to preserve the values and amenities of this community, and

NOW THEREFORE, the Developer declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, and easements hereinafter set forth.

STATE MS.-DE SOTO CO. *g*
FILED

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W.E. DAVIS CH. CLK.

1. DEFINITIONS

Definitions. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall indicate a contrary intention) shall have the following meanings:

- a. "Property" shall mean and refer to that property described on Exhibit A hereto which is subject to these Covenants or any Supplemental Covenants under the provisions of Article II hereof, and any additional land subjected to these Covenants.
- b. "Lot" shall mean and refer to any plot of land shown as such upon any recorded subdivision map or plat of the Property, with the exception of the Common Area as heretofore defined.
- c. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.
- d. "Member" shall mean and refer to every person or entity who holds membership in the Association.
- e. "Architectural Committee" shall mean the Developer. After the Developer assigns the responsibilities of this committee to the designee, consisting of at least three property owners within the Mallory Woods subdivision, designee shall serve as the Architectural Committee.
- f. "Declarant" or "Developer" shall mean EBI, Inc. .

2. PROPERTY SUBJECT TO THIS DECLARATION:

- a. The Property. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, is located in DeSoto County, State of Mississippi, and is more particularly described on Exhibit A which is attached hereto and made a part hereof, all of which property shall be referred to as the "Property". From time to time, Developer may subject other properties to this Declaration by filing such supplemental declarations with the description of that property which shall become subject to the terms and conditions of this Declaration.

3. ARCHITECTURAL COMMITTEE AND REVIEW PROCESS

- a. **Review by Committee.** No structure, whether a residence, accessory building, tennis court, swimming pool, fence, wall, exterior lighting, or other improvement, shall be constructed upon any lot and no alteration thereof shall be made or performed unless complete plans and specifications showing the exterior design, height, building material, elevations and color scheme thereof, the location of the structure on the lot, the location and size of driveways, and the general plan of landscaping and fencing shall have been submitted to and approved in writing by the Architectural Committee. A copy of such plans and specifications, as finally approved, shall be deposited with the Architectural Committee. No trees over 3 inches in diameter shall be removed without prior written approval by the Architectural Committee.
- b. **Best Judgment.** The Architectural Committee shall exercise its best judgment to see that all improvements, construction, landscaping and alterations conform to and harmonize with existing surroundings and structures.
- c. **Procedures.** The Architectural Committee shall approve or disapprove all plans and requests within ten (10) business days after submission. In the event the Architectural Committee fails to take any action within ten (10) business days after requests have been submitted, approval will be deemed to have been given, and this Article will be deemed to have been fully complied with and construction shall be in compliance with plans as submitted. The Architectural Committee may adopt architectural guidelines to benefit the Subdivision.
- d. **Voting.** A majority vote of the Architectural Committee is required for approval or disapproval of proposed improvements.
- e. **Written Records.** The Architectural Committee shall maintain written records of all applications submitted to it and of all actions it may have taken.
- f. **Limited Liability.** The Architectural Committee shall not be liable for damages to any person submitting requests for approval or to any owner of any lot by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such requests. The Architectural Committee may refuse approval on any grounds, including purely aesthetic conditions.
- g. **Members.** The Declarant, or its designees, shall serve as the members of the Architectural Committee. Designees shall consist of at least three property owners with in Mallory Woods subdivision, and shall be designated by written instrument, recorded with the DeSoto County Chancery Clerk, and solely at the option of the declarant.
- h. **Approvals.** Construction on approved plans shall commence within six (6) months of such approval, or such approval shall cease and terminate if construction does not

commence within such period. Once commenced, such construction shall be diligently pursued to completion within 12 months from start of construction, unless such time is extended by the Architectural Committee.

- i. Only those plans designed by professional residential designers or architects whose qualifications are approved by the architectural committee will be accepted. The criteria used in determining a designer's or architects qualifications will be within the sole province of the committee.
- j. The Committee seeks to maintain a visually pleasing and harmonious design for each home site.
- k. The design guidelines established by the Committee may include without limitation, appropriate and reasonable standards for exterior finishes and materials which it deems desirable or in its discretion may disallow that which detracts from the value of the home or the surrounding homes or the general appearance or value of adjacent structures or the neighborhood. The Committee reserves unto itself, its successors and assigns, the right to control, absolutely and in its unfettered discretion, the precise site, location and orientation of any fencing, house, dwelling or other improvement or structure upon all residential building sites and in certain cases the minimum size as may be dictated by factors referenced under paragraphs 2.3 and 2.5 infra; provided, however, that such location shall be determined only after reasonable opportunity is afforded the lot owner to recommend a specific site.

I. APPLICATION PROCESS

i. An APPLICATION OF APPROVAL shall be submitted by the property owner or his agent to the Architectural Review Committee. Included with the application shall be such plans and documents and other information as specified in the following sections and as requested by the Committee. WRITTEN APPROVAL BY THE COMMITTEE MUST BE RECEIVED BEFORE COMMENCEMENT OF ANY CLEARING, GRADING OR CONSTRUCTION ACTIVITY. The authority to approve building and landscape plans is vested solely in the committee.

ii. It shall be the responsibility of the lot owner to acquaint his or her architects, advisors and contractors with the architectural review process and the Garden Home Architectural Guidelines.

iii. Compliance with all local and state governmental regulations and obtaining all necessary permits and fees shall be the obligation of the lot owner.

iv. In all Parcels, the Damage Deposit in the amount of \$500.00 must be received prior to review of Final Plans. IF A BUILDER/OWNER COMMENCES CONSTRUCTION PRIOR TO SUBMITTAL AND/OR PRIOR TO APPROVAL OF SUBMITTED

PLANS AND SPECIFICATIONS HE/SHE AUTOMATICALLY FORFEITS HIS/HER \$500.00 (FIVE HUNDRED AND No/100 DOLLARS) DAMAGE DEPOSIT. A "Damage Deposit" is intended to be a deterrent as to any activity by Builder/Owner which may result in damages, measured in dollars, which the Builder/Owner may cause to the property or the Association, the adjacent Lot owner(s) or to a public or private street or other improvement or entity. Builder/Owner shall be responsible for any and all such damages regardless of amount.

m. OPTIONAL PRELIMINARY DESIGN REVIEW

i. An optional preliminary review of the owner's plans by the Committee may be conducted for an indication of the architect's or designer's compliance with the general design requirements. This service is intended to assist owners and architects in expediting their work and minimizing revisions.

ii. The following plans are required:

- (1) Preliminary Site Plan
- (2) All major elevations

n. FINAL DESIGN APPROVAL FOLLOWING OPTIONAL

Two (2) complete sets of the following information shall be submitted to the Committee. One (1) set shall be retained by the Committee and one (1) set shall be returned to the owner upon completion of review. NO CONSTRUCTION ACTIVITY SHALL COMMENCE WITHOUT FINAL APPROVAL BY THE COMMITTEE. PLANS SUBMITTED TO DESOTO COUNTY FOR A BUILDING PERMIT MUST BEAR A NOTATION OF APPROVAL BY AN AUTHORIZED MEMBER OF THE ARCHITECTURAL REVIEW COMMITTEE.

The following plans are required:

- i. Final site plan
- ii. House Plan
- iii. Finish floor elevations.

Final design approval will be effective for six months; thereafter, commencement of construction will require re approval. THE APPLICATION FOR APPROVAL (See Section 8 herein), fee and all other materials specified herein for Committee consideration shall be sent to:

Architectural Review Committee
c/o EBI, Inc.
P.O. Box 7
Tunica, Mississippi 38676

4. SITE PLANNING & LANDSCAPE DESIGN

To insure that the overall beauty of the community is preserved and enhanced, the Architectural Review Committee has the authority to approve or disapprove landscape plans for individual residences. The Architectural Review Committee will take into account various relationships of the house to the site, surrounding homes, views, breezes and other important factors when reviewing specific landscape plans.

a. PRESERVATION OF NATURAL FEATURES

Throughout Mallory Woods many fine, mature individual trees exist. Many are located in prominent view from our streets and roads giving them special significance. The community has taken a positive step toward the recognition and protection of such trees by requiring approval by the Architectural Review Committee to remove any tree, on any building lot, with a trunk diameter over four (4) inches at four (4) feet above natural grade.

Fundamental to the design criteria is the need for gardens and lawns to harmonize with the native terrain and natural beauty of the community. Owners will be encouraged by the Committee to landscape their lots with plants that are indigenous (native) to the DeSoto County area, and may be required to leave untouched as much as possible the existing vegetation and natural amenities of the site.

The Architectural Review Committee will take into consideration all elements of the individual landscape plan and plant materials selected in the approval process.

b. LOCATION OF HOUSE ON SITE

The siting of a house is a critical and important design decision. The site plan concept developed for each homeowner should reflect functional needs, but also be sensitive to the site's unique characteristics and inherent design opportunities. It is important that the three dimensional character of each home be carefully studied.

It is desirable for the homes of our community to exhibit the individuality of their owners. But it is also important that they observe basic design principles inherent in good architecture and site planning. Below are several questions to keep in mind while designing and locating the house:

- i. Is the residence located on the site with a minimum disruption to the natural topography, drainage, and existing landscape features?
- ii. Will the various building materials allow for a pleasant coloring and harmonious exterior appearance to the residence? Are colors appropriate to design use and area?
- iii. Is there a consistent scale used throughout the design of the residence? Each element must not be designed out of proportion to another.
- iv. Are the specific features of the architectural style well developed and carefully

detailed?

The Architectural Review Committee shall consider each site independently, but shall give extensive consideration to each individual plan's impact upon adjacent homesites and view corridors. Care must be taken to locate each structure, whenever possible, so as not to infringe upon view corridors, adjacent structures and homesites, and natural amenities of the area. Committee reserves unto itself, its successors and assigns, the right to control absolutely and solely to decide the precise site, location and orientation of any house, dwelling or other structure upon all residential building sites; provided however, that such location shall be determined only after reasonable opportunity is afforded the lot owner to recommend a specific site.

Considerations in this regard include:

- (1) Physical terrain of the site.
- (2) Views from homesite.
- (3) Views to the homesite from adjacent lots.
- (4) Natural amenities: existing landscape, existing water and drainage channels
- (5) Driveway access.
- (6) Height of structures.

c. GRADING AND DRAINAGE

i. Grading Concept for Development

The design and development concepts of the Community call for the maintenance of the environment in as much of the original condition as possible. No structure or improvements can alter the natural drainage of the site to the degree that it negatively impacts the site. For this reason it will be required that each homeowner handle the runoff that naturally occurs on their site by adequately sloping all areas so that runoff can be directed to the natural drainage areas or to storm drainage facilities.

During and after construction, erosion shall be controlled by completely sodding exposed slopes. The use of exposed drain pipe or impervious swale lining is prohibited; however, catch basins and buried drain pipe may be used.

The Architectural Review Committee is keenly aware that whenever possible, structures should be designed to the specific lot. It is important to remember that the beauty of our development is the land and its natural features, and that the architecture should compliment and enhance rather than compete with or destroy this beauty.

In order to help insure compliance with this philosophy as part of a final design submittal, a grading plan will be required. A GRADING PERMIT MUST BE OBTAINED FROM THE COMMITTEE BEFORE EARTH IS MOVED OR

REMOVED FROM A SPECIFIC HOMESITE. ABSOLUTELY NO GRADING WHATSOEVER SHALL BE PERMITTED WITHOUT FIRST OBTAINING THIS PERMIT.

All grading reviews shall be subject to the jurisdiction of the Committee and shall be considered individually for each lot. Recommendations or demands will be based upon individual lot locations, terrain, soil conditions, drainage, cuts and fills, and whatever other conditions the Committee feels impacts upon the site grading design. Soil tests conducted by competent professionals are strongly recommended to all lot owners.

d. FINISHED FLOOR ELEVATIONS

The elevation of the lowest habitable floor in any dwelling shall not be lower than the elevation necessary to ensure proper drainage away from the dwelling or reasonably ensure passage of storm water runoff without inundation of the dwelling, and such elevation may be determined by the Architectural Review Committee. The builder of the dwelling on each Lot shall excavate, fill, grade and shape the swelling, foundation, landscaped areas, and lawn areas to drain and not impede, interfere or impound storm or irrigation water runoff from adjacent Lots.

5. BUILDING REQUIREMENTS

a. MINIMUM DWELLING SIZES

The minimum building requirement for heated and cooled space in a dwelling, excluding open porches and garages, breezeways, cabanas, workshops and exterior bathrooms, or the like shall be 2,500 square feet.

The Architectural Review Committee reserves the right to deviate from stated minimums where circumstances necessitate and where benefits will accrue to the community.

b. BUILDING SETBACKS

The minimum building setback limits have been determined by the Architectural Review Committee. The following setbacks are minimum standards and are measured from the property lines.

Front & Road	100 feet
Side	30 feet
Rear	50 feet

For some building lots within the community it may be impossible or inadvisable to develop according to these standards due to natural terrain, lot configurations, and/or proximity of adjacent structures. Therefore, the Committee may approve specific deviations to these setbacks which it believes to be beneficial to a specific homesite or to adjacent homesite or the community as a whole.

6. LANDSCAPE DESIGN

INTRODUCTION

Two (2) sets of your landscape plans and specifications showing the name and placement of plant material, as well as quantity and size shall be submitted for approval. Areas where turf grass is planned shall receive sod. No sprigging, seeding or hydromulching is allowed.

Landscape plans should be submitted with house plans. The entire front elevation of the home must be landscaped upon completion of the home and prior to occupancy by the homeowner.

a. WALKWAYS

Unless the Committee declares otherwise, each dwelling shall have a four (4) feet wide, 4" thick, 3,000 psi concrete sidewalk connecting all front and side entrances of the dwelling. All walkways shall consist of a washed concrete finish or alternatively, an approved material such as brick or bluestone. Smooth finished, grey or silver cast concrete finishes are prohibited for drives and walks. The concrete surface of the sidewalks, shall be scored for crack control at four (4) foot intervals.

b. LAWN AREAS

Though owners are encouraged by the Committee to landscape their lots for individual beautifications, natural green areas are preferred. Any front yard area considered lawn area shall be sodded with the actual lawn species noted on the landscape plan to be submitted.

c. DRIVEWAYS

A turning radius of not less than fifteen (15') feet for entering the carport or garage shall be required. All driveways, shall consist of a washed concrete finish or asphalt when installed over a 6 inch gravel base. Gravel drives will not be permitted.

Headwall structures are required to be installed at driveway culvert ends, and at any other culvert ends visible from any public view. Such headwall shall be constructed of natural Arkansas field stone or cobble stone and shall extend no higher than six inches above the driveway grade.

d. GARAGES

Each dwelling shall have a garage for not less than two and no more than three traditionally sized automobiles manufactured in the United States. An additional detached garage for no more than two automobiles is permitted. Garages must have multiple wood or steel raised panel garage doors, each door being one car width (9') and 7' or 8' in height, with a

minimum of 4 sections, equipped with automatic garage door openers. Except for unusual circumstances, an Owner of a Lot must keep his automobile parked in his garage. All garage doors shall be kept closed except during period of the actual use thereof. [Only side and rear-loading/opening garages will be permitted].

e. WALLS AND FENCES

Fences shall be of two types: Perimeter fences and dwelling fences. Perimeter fences shall serve the purpose of fencing an entire lot or major portion thereof. Dwelling fences shall be for the purpose of providing fencing for living activities oriented toward the home, such as children's play, relaxation or exclusion of horses.

Perimeter fencing parallel to roads and drives and extending in any direction between the home and the road shall be a three or four rail fence. Rail fences shall be painted white. The use of PVC fences as an alternative material is acceptable provided the styling and coloring requirements are observed.

Dwelling fences shall be designed as picket fences and shall be no taller than four feet from adjacent grade, except that privacy fences may be installed when concealed entirely to the rear of dwellings. Privacy fences shall be western cedar and may be of shadow box construction.

All retainer walls shall be constructed of natural Arkansas field stone or cobble stone or crossties. Retainer wall designs must be illustrated and approved on design and construction plans.

All walls and fences must be approved by the Review Committee prior to their installation. Gates are considered as part of fences and must be submitted for approval. Chain link and privacy fences are prohibited. Wire fences are permitted only to the rear of dwellings.

f. MAILBOXES AND GAS LIGHTS

Each dwelling shall have a mailbox which is uniform throughout the community and which is approved by or meets in every respect the requirements set forth by the Architectural Review Committee, which may require its purchase from the Association or specified vendor. Mailboxes shall be placed near the driveway.

g. LANDSCAPE SCREENING

All air-conditioning compressors, utility boxes, gas/electrical meters and pool equipment must be visually screened from the street and sideyard view by appropriate fencing, screening or landscaping. Details shall be submitted with the landscaping plan to the Committee for approval. If landscaping is used to screen air conditioning compressors, utility boxes, gas meters, water meters, swimming pool equipment, firewood and/or other unsightly objects,

plant materials must be at least as high as units being screened, four (4') foot minimum. Evergreen plants shall be used for screening purposes and must be of a type that does not 'die back or meltdown' in freezing temperatures. All air-conditioning units and pool equipment must be screened from the street and sideyard view prior to home occupancy.

h. LANDSCAPE LIGHTING/ SECURITY LIGHTING

Exterior site lighting and security lighting shall not infringe upon adjacent neighbors.

i. GAZEBOS/ GARDEN STRUCTURES

Gazebos or garden structures should relate architecturally to the design of the home in both form and material. Details and location of gazebos must be submitted for approval with the landscape plan and must be approved by the Committee.

j. POOLS, SPAS, HOT TUBS

The design and location of pools, spas, and hot tubs shall be subject to the approval of the Committee and shall be harmonious with the architecture and landscape design. Pool fences shall conform to county requirements, and to the requirements for fencing as stated in these restrictions.

k. MAINTENANCE

Trees, shrubs, and plants which die or become severely diseased should be removed promptly.

l. STORAGE SHEDS AND BARNES

Storage sheds and barns shall be constructed of the same materials as the residence. No prefabricated metal barns are permitted. Storage sheds and barns shall be enclosed and shall be no larger than the size of the principal dwelling. Pole barns and "lean too" structures are prohibited. .

7. ARCHITECTURAL DESIGN

The use of Palladian, Late Federal, and Greek Revival, and southern plantation and farm architectural styling is encouraged.

To guarantee that the overall beauty of the community is preserved and enhanced, Mallory Woods has formed an Architectural Review Committee to review plans submitted by the lot owners. This Architectural Review Committee has the authority to approve or disapprove any plans submitted for site development and improvements, landscaping and individual residences.

The Architectural Review Committee will review and approve all designs and plans for the following criteria:

- i. Consideration of primary site design requirements.
- ii. Sensitivity to the existing landscape features of each site.
- iii. The visual relationship or physical impact the proposed home may have on surrounding home sites.
- iv. Excellence of architectural design.

Special attention should be given during the design process to small details which can give each home its own uniqueness but still contribute to the neighborhood's overall appearance.

By encouraging quality and attention to detail the Architectural Review Committee following these Design Guidelines intends to preserve and enhance the aesthetic harmony, natural tranquillity and overall property values of Mallory Woods.

a. DESIGN GUIDELINES

Terms such as "sound design" and "good taste" are difficult to describe and even more difficult to judge. Beauty may be in the eye of the beholder but the overall aesthetic harmony of the community must take precedence over an architectural statement, particularly if that statement is a radical departure from what the general public perceives as "good design". One ill-conceived or architecturally experimental home can greatly detract from the visual continuity of the overall community as well as affect surrounding property values. For these reasons the following elements are to be avoided:

- i. Harsh contrasts of colors and/or materials.
- ii. Illogical or inappropriately scaled building elements.
- iii. Poorly conceived and executed details.
- iv. Experimental or extreme interpretations of the tenets of this particular architectural style.

The following elements are to be encouraged:

- v. Appropriate and intelligent selection of details.
- vi. Well designed floor plans.
- vii. Sensitive interpretation of style within constraints of budget and site.
- viii. Attention to scale, staying within the traditional or classical range of proportions.

All construction must be of new materials. No metal outbuildings will be allowed and no log cabin wood exteriors will be permitted. Electrical service from the street to each home shall be underground.

i. EXTERIOR MATERIALS

In order to insure visual continuity throughout the community, exterior materials shall be limited to "old" brick. All siding must be wood or approved smooth synthetic single board lap siding subject to the approval of the Committee. Exterior colors including siding, trim, brick, roof material and colors must be approved by the Committee. Installation of non-approved colors/materials may result in mandatory removal and replacement as well as automatic forfeiture of damage deposit. Any changes in exterior colors or materials must be approved by the Committee, as must all changes to the plan.

ii. CEILING HEIGHT

All residences shall be constructed with ceilings not less than nine (9) feet high.

iii. WINDOWS

Quality clad windows may be approved by the Review Committee. Aluminum windows will not be allowed. True Divided Light windows shall be required on all front elevations unless deemed inappropriate by the Committee. Windows shall have a five-eighth inch (5/8") mullion profile (or minimum size available for windows). Closed, shuttered windows will be allowed only with the battens not showing. The window shall be framed and attendant hardware shall be included.

For architectural integrity, true divided light, casement or custom windows will be required as the style of the home dictates.

When decorative wood lintels are used above windows they shall extend 6" past window trim. Steel lintel (size as required) should support brick above wood lintel.

iv. EXTERIOR WALLS

To provide visual continuity throughout the development, it is recommended that the

exterior wall surfaces be limited to "old" brick, stone, wood siding and cement. A maximum of two dominant materials should be used on each residence. Wood siding will be limited to accent the architectural style and will not be permitted on major walls.

v. DOORWAYS AND EXTERIOR ENTRIES

Sidelights and transoms are highly recommended at major entries. The use of storm doors is discouraged. Three and one-half inch (3 1/2") door rail profiles are required. Larger rails may be approved at the discretion of the committee for larger doors provided they are architecturally proportionate. Solid core wood doors (with optional glass or leaded glass inserts) on the front elevations and corner elevations are required except in unprotected areas where metal clad doors will be approved. Walk through garage doors and side doors where there is not a porch overhang must be painted metal panel doors, and/or glass subject to the approval of the Committee. Details, with photos if possible, must be submitted to the Committee for approval.

vi. SHUTTERS

Where shutters are deemed appropriate, only wood will be allowed. Shutter width elevations must be functional. All shutters must be approved by the Committee. Shutter details must be shown on elevation drawings, including the number of battens. Picture windows should not have shutters. Closed, shuttered windows shall not have battens showing, but the window shall be framed and the attendant hardware shall be included

vii. SKYLIGHTS/ SOLAR COLLECTORS

Skylights shall not be located on the front elevation of the home. Only flat skylights shall be allowed. No bubble skylights will be permitted. Solar collectors may be placed in the rear of homes only, subject to the approval of the Committee. Skylights and solar collectors must be shown on plans when submitted

viii. GUTTERS, DOWN SPOUTS, AND FLASHING

Flashing, Gutters, and Down spouts, if used, must be copper.

ix. DORMERS

Dormers may be constructed in any style or form providing that they fall within traditional or classical proportions.

x. CHIMNEYS

All exposed portions of chimneys must be brick or stucco. Chimney caps are required and materials may be brick, slate, terra cotta, or copper. All roof penetrations are to be

painted the color of the roof and must be located in the rear of the home where possible. If for any reason the building, plumbing or electrical codes require the stack vents to be in any location other than the rear of the home, these stack vents must be composed of copper.

xi. REMODELING AND ADDITIONS

Remodeling and additions to existing homes are required to meet the same criteria as new construction, including Committee approvals.

xii. GARAGE APARTMENTS

No garage apartments shall be built on any lot without approval from the Committee.

8. HOMEOWNERS GENERAL COVENANTS, OBLIGATIONS AND RESTRICTIONS

a. ANTENNAS. OUTSIDE FLAGPOLES. SATELLITE DISHES

Radio and television antennas, satellite dishes and flagpoles are prohibited unless screened by Committee approved design. The flying of State, Confederate, or United States flags shall be appropriate to the occasion.

b. CLOTHESLINES

Outside clotheslines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed or maintained, nor shall any clothing, rugs or other items be hung from any railing, fence, hedge or wall.

c. OUTSIDE MUSIC

Outside Music, sound-producing devices and any other mechanical devices shall be subject to the approval of the Committee. Outside music shall not be played so loudly that it is considered a nuisance by neighbors. The Committee shall have the sole discretion as to what may or may not be considered a nuisance.

d. WINDOW COVERINGS

No foil, sheets, reflective materials, paper or bright colors shall be used on any windows for drapes, sun screens, blinds, shades or other purpose. Interior window coverings shall be lined in a neutral color so as not to detract from the exterior of the home. The Committee suggests the use of inexpensive shades as temporary window coverings until permanent window coverings are installed.

e. WINDOW UNITS

Window mounted air-conditioning or heating units are prohibited.

f. PETS/ANIMALS

There shall be no commercial raising of livestock such as cows, horses, goats, pigs, sheep and rabbits, or poultry of any kind. Horses shall be allowed for personal and hobby use at a rate of 1 per acre.

Domestic animals shall not roam freely, but must be leashed or detained by fences. Domestic animals shall not be of such kind or disposition, or kept in such numbers as to cause a nuisance. The determination of a situation as nuisance is at the sole discretion of the Committee and this determination shall be final.

g. TEMPORARY STRUCTURES

No structures of a temporary character, trailer, basement, shack, garage, barn or other out-building shall at any time be used as a residence, temporarily or permanently. No detached structure may be constructed without first having been approved by the Committee and all such buildings must conform in every respect, including materials, with the exterior construction of the residence construction on that same lot.

h. GARBAGE COMPOST

No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Upon completion of a residence, all debris shall be removed from the premises immediately. Garden compost may be kept in quantities required by one (1) household only, provided it is not visible from the street and is kept free of noxious odors and insects. No burning of rubbish or trash will be allowed once initial construction of a primary residence is completed.

i. MOBILE HOMES/ TRAILERS. WATER BORNE VEHICLES

The keeping of a mobile home or trailer, either with or without wheels, on any parcel of property covered by these covenants is prohibited. A motorboat, houseboat or other similar water borne vehicle or recreational vehicle (motor home) may be maintained, stored or kept on any parcel of property covered by these covenants ONLY if housed completely within a structure which has been approved by the Committee.

j. SIGNS

No sign of any kind, other than one standard (16" x 24") real estate and one builder sign, shall be displayed to the public view on or from any building site without the prior consent

of the Committee.

k. **PROMPT REDRESS OF DISASTERS**

Any residence or building or improvement that is destroyed partially or totally, by fire, storm or any other means shall be repaired or demolished within a reasonable time and the lot restored to an orderly and attractive condition. However, the lot owner is not required to rebuild the structure as it existed prior to the demolition, only to clean the lot so it presents a neat appearance.

l. **NUISANCES**

No noxious or offensive activity shall be carried on, nor shall anything be done which may be or become an annoyance or nuisance to the other owners. Decisions of the Committee in its sole discretion shall be final as to what does or does not constitute an annoyance or nuisance.

m. **NO SUBDIVISION OF LOTS**

No lot may be subdivided into two or more lots. However, two or more lots may be combined as one lot, in which case the interior lot lines and easements along the common lot line shall be extinguished, except where drainage easements or existing utility lines are in place. In the event two or more lots are so combined as a single lot under one ownership, no part of the combined lots may be separately sold or conveyed without approval of the Association.

n. **Single Family Use Only**

No garage or outbuilding on any lot shall be used as living quarters either permanent or temporary.

o. **USAGE**

No offensive or unlawful use shall be made of the subdivision property, nor any part thereof. All valid laws, zoning ordinances and regulations of all governmental bodies have applicable jurisdiction thereof shall be observed. The responsibility of governmental bodies which require maintenance shall be enforceable in the same way as the responsibility for the maintenance and repair of the property concerned under these Restrictions.

p. **MAINTENANCE (HOME EXTERIOR)**

i. **Structures and Grounds.** The structure and grounds of each lot shall be maintained in a neat and attractive manner. Upon the Owner's failure to do so, the Architectural Committee may, at its option, after giving the owner thirty (30) days written notice sent

to his last known address, have the grass, weeds and vegetation cut and have dead trees, shrubs and plants removed from any lot when and as often as the same is necessary in its judgment.

ii. Failure to Make Repairs. Upon the Owner's failure to maintain the exterior of any structure in good repair and appearance the Architectural Committee may, at its option, after giving the owner six (6) months written notice, make repairs and improve the appearance in a reasonable and workman-like manner.

q. PLAYGROUND EQUIPMENT

Playground equipment and swing sets may be made of wood or metal. Metal equipment must be kept in good condition, that is free of rust and chipping paint. Wood is recommended. All such playground equipment must be placed in the rear of the residence ONLY. All such equipment must be screened from view with adequate landscape shrubbery or fencing so as not to be visible from streets, or commons areas.

r. BASKETBALL GOALS

Basketball goals are permitted, however, under no circumstances are basketball goals allowed to be attached to any part of a residence or other structure. Written approval from the Committee must be obtained to place a basketball goal anywhere but the rear of the house.

s. PARKING

No vehicle shall be parked on any street or in front of residences on a frequent, regular or permanent basis after construction of a residence is completed. No vehicles may be parked on any driving surface in any manner which blocks the driving surface in any road or private driveway. Any unregistered, unauthorized or illegally parked vehicles of any kind will be towed from Mallory Woods Subdivision to the locational choice of the towing service at the expense of the owner of the vehicle.

No junk vehicle, commercial vehicle, camper, house trailer, or other commercial equipment shall be kept upon any lot, nor shall extraordinary repair or maintenance thereof be carried out thereon; except (a) for bona fide emergencies, (b) for vehicles, boats, equipment and the like kept within approved storage areas, (c) by Developer or (d) by the Association for limited periods of time during construction or maintenance activities. All such vehicles shall have a current license plate and inspection sticker.

9. RULES FOR ALL OWNERS, CONTRACTORS AND SERVICE PERSONNEL

No approval of plans and specifications, nor these design guidelines shall ever be construed as representing or implying that a structure is properly designed. Such approvals and standards shall in no event be construed as representing or guaranteeing that any structure will be built in a good workmanlike manner. It is the sole responsibility of the lot owner to make sure that construction meets the criteria of Mallory Woods covenants and design guidelines.

The following rules apply to all Mallory Woods owners, contractors and service personnel while on Mallory Woods premises:

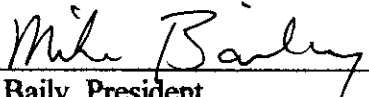
- a. Contractors are required to keep their job sites as neat and clean as possible. Trash and discarded materials will be removed daily. ALL trash stockpiled for removal shall be located on street side of lot until removed. There will be no stockpiling or dumping on adjacent lots or on streets. Trash not removed will be removed and will be billed to the responsible party or taken from the Damage Deposit.
- b. No building material of any kind or character shall be placed upon any lot except in connection with construction approved by the Architectural Committee. As soon as building materials are placed on any lot in such connection, construction shall be promptly commenced and diligently prosecuted, including approved driveways and landscaping.
- c. Construction materials shall be stored in a neat and orderly manner at all times during construction. Materials are not permitted to accumulate on any lot for a period exceeding 90 days from the first delivery. Stockpiling of any material on adjacent lots is not allowed.
- d. Contractors will use only the utilities provided to the immediate lot on which they are using.
- e. Concrete trucks may be washed out on the site where they have just poured the slab ONLY. Concrete trucks may NOT be washed out on adjacent lots (whether vacant or not), on any street, sidewalk or any developed property. There will be NO EXCEPTIONS. The builder is to designate a washout area on the lot where the pour is taking place and notify the concrete truck driver as to where it is. The developer may, from time to time, provide wash out areas within the subdivision and will post signs as to availability.
- f. All personnel working in the community are to insure that they will keep all areas in which they work or travel through free of discarded materials such as lunch bags and odd materials. Objects should not be thrown out of cars and trucks. Stock piling of any materials on adjacent lots or common areas is not allowed.

- g. Loud radios or noise will not be allowed within the subdivisions. This is distracting and discomforting to property owners. Normal radio levels are acceptable. Do not mount speakers on vehicles or outside of homes under construction. Remember that sound travels a long way.
- h. No building materials or equipment of any kind may be placed or stored on any lot except in the actual course of construction of a residence.
- i. No temporary storage trailers or buildings are allowed.
- j. Any construction work on Sundays will be with the written consent of the developer. The developer reserves the right to revoke the written consent at any time.
- k. Lots shall not be used as a dumping ground for rubbish. The cost of removal will be the responsibility of the lot owner.
- l. Grass and weeds shall be kept mowed to prevent unsightly appearance. Dead, diseased or damaged trees on any lot which might create a hazard to property or person shall be promptly removed and/or repaired. Cutting of weeds, or removal of dead and hazardous trees contracted by the Developer, necessitated by inaction on the lot owner's part, will be billed to the lot owner.

10. GENERAL PROVISIONS

- a. **Duration.** The Covenants and Restrictions of this Declaration shall run with and bind the land, shall inure to the benefit of and be enforceable by the Association, or the Owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said Covenants shall be automatically extended for successive periods of ten (10) years unless an instrument terminating these Covenants and Restrictions signed by the then Owners of seventy-five percent (75%) of the Lots has been recorded prior to the commencement of any ten-year period.
- b. **Amendments.** These Covenants and Restrictions may be amended by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Notwithstanding any other provision in these covenants and restrictions, for as long as the Developer shall own any property within the subdivision or there are additional phases to be added to the subdivision, then these covenants shall not be amended without the written approval of the Developer. Any amendment must be properly recorded in the Land Records of the Chancery Clerk of Desoto County, Mississippi. As long as Developer owns lots in the Subdivision, Developer may make reasonable amendments to these covenants without the consent of any other person.

- c. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing. Each purchaser of a lot shall forward a copy of his recorded warranty deed to the Association or its officer.
- d. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction therein contained shall in no event be deemed a waiver of the right to do so thereafter.
- e. Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.
- f. Attorney Fees. In any legal or equitable proceeding for the enforcement or to restrain the violation of this instrument or any provision thereof, by reference or otherwise, the prevailing party or parties shall be entitled to attorney fees in such amount as the court finds reasonable. All remedies provided for herein or at law or equity shall be cumulative and not exclusive.
- g. Covenant Running With The Land. This Declaration shall be a covenant running with the Land and shall apply to all Lots and Common Areas which are created from the Property.

s/ 
Mike Baily, President
EBI, Inc.

STATE OF MISSISSIPPI
COUNTY OF DESOTO

Personally appeared before me, the undersigned authority in and for the above county and state, Mike Baily, President of EBI, Inc. and who being duly authorized stated that they signed and delivered the above and foregoing instrument on the day and year therein stated as the their act and deed. ,

GIVEN under my hand and official seal of office, this the 22nd day of May 2002.

/s/ W. E. Davis Chancery Clerk
My Commission Expires
MY COMMISSION EXPIRES
JAN. 5, 2004

Prepared By:

EBI
P.O. Box 7
Tunica, Mississippi 38676
662-363-0002